

Executive Summary – Enforcement Matter – Case No. 43646

City of Mertens

RN101407815

Docket No. 2012-0452-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Mertens, approximately 1,300 feet east of Farm-to-Market ("FM") Road 308, approximately 3,400 feet southeast of the intersection of FM Road 308 and State Highway 22, Hill County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 17, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,800

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,800

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 43646

City of Mertens

RN101407815

Docket No. 2012-0452-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 1, 2012

Date(s) of NOE(s): February 10, 2012

Violation Information

1. Failed to timely submit effluent monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013271001, Monitoring and Reporting Requirements No. 1].

2. Failed to timely submit the annual sludge report [30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013271001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On March 5, 2012, Respondent submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending August 31, 2011; September 30, 2011; October 31, 2011; and November 30, 2011, and the annual sludge report for the monitoring period ending July 31, 2011.

Technical Requirements:

The Order will require Respondent to:

a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submitted of signed and certified monthly DMRs and annual sludge reports; and

b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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City of Mertens
RN101407815
Docket No. 2012-0452-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division,
Enforcement Team 1, MC 169, (512) 239-2587; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Barbara S. Crass, Mayor Pro-Tem, City of Mertens, P.O. Box 26,
Mertens, Texas 76666

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 13-Feb-2012 | Screening | 23-Feb-2012 | EPA Due | |
| | PCW | 10-May-2012 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|-----------------|---------------------------|-------|
| Respondent | City of Mertens | | |
| Reg. Ent. Ref. No. | RN101407815 | | |
| Facility/Site Region | 9-Waco | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 43646 | No. of Violations | 2 |
| Docket No. | 2012-0452-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Jacquelyn Green |
| | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$1,250 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|-------------------|--------------------------------|-------|
| Compliance History | 44.0% Enhancement | Subtotals 2, 3, & 7 | \$550 |
|---------------------------|-------------------|--------------------------------|-------|

Notes: Enhancement for four NOV's with same/similar violations, two months of self-reported effluent violations, and one order with denial of liability.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts \$21
Approx. Cost of Compliance \$400
*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$1,800 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$1,800 |
|-----------------------------|---------|

STATUTORY LIMIT ADJUSTMENT

| | |
|-------------------------------|---------|
| Final Assessed Penalty | \$1,800 |
|-------------------------------|---------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$1,800 |
|------------------------|---------|

Screening Date 23-Feb-2012

Docket No. 2012-0452-MWD-E

PCW

Respondent City of Mertens

Policy Revision 3 (September 2011)

Case ID No. 43646

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101407815

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 4 | 20% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 44%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with same/similar violations, two months of self-reported effluent violations, and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 44%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 44%

Screening Date 23-Feb-2012

Docket No. 2012-0452-MWD-E

PCW

Respondent City of Mertens

Policy Revision 3 (September 2011)

Case ID No. 43646

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101407815

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013271001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit effluent monitoring results at the intervals specified in the permit, as documented during a record review conducted on February 1, 2012. Specifically, the discharge monitoring reports ("DMRs") were not submitted for the monitoring periods ending August 31, 2011; September 30, 2011; October 31, 2011; and November 30, 2011, by the 20th day of the following month.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0.0%

>> Programmatic Matrix

| Falsification | | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | X |

Percent 1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 4

156 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$1,000

Four single events are recommended, one for each DMR.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$1,440

This violation Final Assessed Penalty (adjusted for limits) \$1,440

Economic Benefit Worksheet

Respondent City of Mertens
Case ID No. 43646
Reg. Ent. Reference No. RN101407815
Media Water Quality
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | \$250 | 20-Sep-2011 | 4-Feb-2013 | 1.38 | \$17 | n/a | \$17 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$100 | 20-Sep-2011 | 5-Mar-2012 | 0.46 | \$2 | n/a | \$2 |

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and to conduct employee training (\$250), and to prepare and submit the DMRs (\$25 per DMR). Date required is the date the first DMR was due. Final dates are the estimated date of compliance to conduct employee training and the date the DMRs were submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$350

TOTAL

\$20

Screening Date 23-Feb-2012
Respondent City of Mertens
Case ID No. 43646
Reg. Ent. Reference No. RN101407815
Media [Statute] Water Quality
Enf. Coordinator Jacquelyn Green
Violation Number 2

Docket No. 2012-0452-MWD-E

PCW

Policy Revision 3 (September 2011)
PCW Revision August 3, 2011

Rule Cite(s)

30 Tex. Admin Code § 305.125(1) and (17) and TPDES Permit No. WQ0013271001, Sludge Provisions

Violation Description

Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2011, by September 1, 2011, as documented during a record review conducted on February 1, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent 0.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | x |

Percent 1.0%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

175 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$360

This violation Final Assessed Penalty (adjusted for limits) \$360

Economic Benefit Worksheet

Respondent City of Mertens
Case ID No. 43646
Rea. Ent. Reference No. RN101407815
Media Water Quality
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|------|------------|------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$50 | 1-Sep-2011 | 5-Mar-2012 | 0.51 | \$1 | n/a | \$1 |

Notes for DELAYED costs

Estimated cost to submit the annual sludge report for the monitoring period ending July 31, 2011. Date required is the date the annual sludge report was due and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN600737944 City of Mertens Classification: AVERAGE Rating: 2.93

Regulated Entity: RN101407815 CITY OF MERTENS Classification: AVERAGE Site Rating: 2.93

ID Number(s): UTILITIES REGISTRATION P0728
WASTEWATER PERMIT WQ0013271001
WASTEWATER EPA ID TX0100463
WASTEWATER LICENSING LICENSE WQ0013271001

Location: approximately 1300 feet east of Farm-to-Market Road 308, approximately 3400 feet southeast of the intersection of Farm-to-Market Road 308 and State Highway 22 in Hill County, Mertens Texas

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: February 29, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 28, 2007 to February 29, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jacquelyn Green Phone: 239 - 2587

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 11/09/2007

ADMINORDER 2007-0331-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

| | | | | | |
|----|------------|----------|----|------------|----------|
| 1 | 02/22/2008 | (613979) | 26 | 07/07/2010 | (845332) |
| 2 | 01/11/2008 | (613984) | 27 | 07/07/2010 | (845333) |
| 3 | 03/26/2007 | (627841) | 28 | 07/07/2010 | (845334) |
| 4 | 04/24/2007 | (627842) | 29 | 07/07/2010 | (845335) |
| 5 | 05/22/2007 | (627843) | 30 | 07/07/2010 | (845336) |
| 6 | 06/25/2007 | (627844) | 31 | 07/07/2010 | (845337) |
| 7 | 07/23/2007 | (627845) | 32 | 07/07/2010 | (845338) |
| 8 | 08/23/2007 | (627846) | 33 | 07/07/2010 | (845339) |
| 9 | 09/25/2007 | (627847) | 34 | 07/07/2010 | (845340) |
| 10 | 10/26/2007 | (627849) | 35 | 07/07/2010 | (845341) |
| 11 | 11/27/2007 | (627851) | 36 | 07/07/2010 | (845342) |
| 12 | 12/19/2007 | (627853) | 37 | 07/07/2010 | (845343) |
| 13 | 02/21/2008 | (676246) | 38 | 07/07/2010 | (847530) |
| 14 | 03/20/2008 | (694617) | 39 | 04/20/2011 | (929254) |
| 15 | 04/22/2008 | (694618) | 40 | 04/20/2011 | (929255) |
| 16 | 05/22/2008 | (694619) | 41 | 04/20/2011 | (929256) |
| 17 | 01/24/2008 | (694620) | 42 | 07/07/2010 | (929257) |
| 18 | 12/29/2008 | (706849) | 43 | 04/06/2011 | (929258) |
| 19 | 02/16/2009 | (726045) | 44 | 04/06/2011 | (929259) |
| 20 | 04/14/2009 | (739619) | 45 | 04/06/2011 | (929260) |
| 21 | 06/29/2009 | (745732) | 46 | 05/18/2011 | (939460) |
| 22 | 05/17/2010 | (827918) | 47 | 07/06/2011 | (940851) |
| 23 | 07/07/2010 | (845329) | 48 | 06/20/2011 | (946865) |
| 24 | 07/07/2010 | (845330) | 49 | 07/27/2011 | (954133) |
| 25 | 07/07/2010 | (845331) | 50 | 08/18/2011 | (960706) |
| | | | 51 | 02/10/2012 | (983092) |

Date: 04/30/2007 (627843) CN600737944
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (627844) CN600737944
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/29/2008 (706849) CN600737944
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations; No. 2, Pg. 2 PERMIT
Description: Failure by the permittee to maintain a pH between 6.0 s.u. and 9.0 s.u.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(11)(B)
Sludge Provisions; Section III G, Pg. 22 PERMIT

Description: Failure to submit an Annual Sludge Report to the TCEQ by September 1 of each year.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements; No. 1, Pg. 9 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements; No. 1, Pg. 9 PERMIT

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(d)
Reporting Requirements; No. 1, Pg. 4 PERMIT

Description: Failure by the permittee to submit monthly Discharge Monitoring Reports to the TCEQ by the 20th day of each month.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(a)
Monitoring Requirements; No. 3c, Pg. 5 PERMIT

Description: Failure by the permittee to maintain adequate records of monitoring activities.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(d)
Monitoring Requirements; No. 2, Pg. 4 PERMIT

Description: Failure to comply with procedures specified in 30 TAC 319.11 - 319.12.

Date: 04/13/2009 (739619) CN600737944
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations; No. 2, Pg. 2 PERMIT

Description: Failure by the permittee to maintain a pH between 6.0 s.u. and 9.0 s.u.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(11)(B)
Sludge Provisions; Section III G, Pg. 22 PERMIT

Description: Failure to submit an Annual Sludge Report to the TCEQ by September 1 of each year.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(d)
Reporting Requirements; No. 1, Pg. 4 PERMIT
Description: Failure by the permittee to submit monthly Discharge Monitoring Reports to the
TCEQ by the 20th day of each month.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.7(a)
Monitoring Requirements; No. 3c, Pg. 5 PERMIT
Description: Failure by the permittee to maintain adequate records of monitoring activities.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(d)
Monitoring Requirements; No. 2, Pg. 4 PERMIT
Description: Failure to comply with procedures specified in 30 TAC 319.11 - 319.12.

Date: 05/17/2010 (827918) CN600737944

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 07/06/2011 (940851) CN600737944

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MERTENS
RN101407815**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-0452-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Mertens ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located approximately 1,300 feet east of Farm-to-Market Road 308, approximately 3,400 feet southeast of the intersection of Farm-to-Market Road 308 and State Highway 22 in Hill County, Texas (the "Facility").

2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. During a record review conducted on February 1, 2012, TCEQ staff documented that the Respondent failed to timely submit effluent monitoring results at the intervals specified in the permit for the monitoring periods ending August 31, 2011; September 30, 2011; October 31, 2011; and November 30, 2011, by the 20th day of the following month.
4. During a record review conducted on February 1, 2012, TCEQ staff documented that the Respondent failed to timely submit the annual sludge report for the monitoring period ending July 31, 2011, by September 1, 2011.
5. The Respondent received notice of the violations on February 17, 2012.
6. The Executive Director recognizes that on March 5, 2012, the Respondent submitted the discharge monitoring reports ("DMRs") for the monitoring periods ending August 31, 2011; September 30, 2011; October 31, 2011; and November 30, 2011, and the annual sludge report for the monitoring period ending July 31, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to timely submit effluent monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013271001, Monitoring and Reporting Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the annual sludge report, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0013271001, Sludge Provisions.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Thousand Eight Hundred Dollars (\$1,800) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the One Thousand Eight Hundred Dollar (\$1,800) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Eight Hundred Dollars (\$1,800) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Mertens, Docket No. 2012-0452-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submitted of signed and certified monthly DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0013271001.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

9/4/12

Date

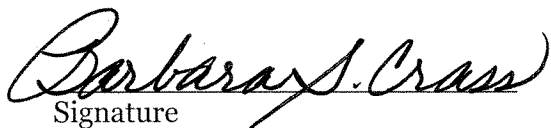
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Mertens. I am authorized to agree to the attached Agreed Order on behalf of the City of Mertens, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Mertens waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

Barbara S. Crass
Name (Printed or typed)
Authorized Representative of
City of Mertens

June 22, 2012
Date
Mayor Pro-Tem
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.